

REMARKS

Applicants respectfully request entry of the amendments and remarks submitted herein. Claims 1-36 have been canceled and new claims 37-79 have been added. Reconsideration of the pending application is respectfully requested.

Objections to the Specification

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicants have amended the specification to remove the hyperlinks on pages 17 and 18. Therefore, Applicants respectfully request that the objection to the specification be withdrawn.

The 35 U.S.C. §103 Rejections

Claims 1, 4-16, 19, 20, and 23-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sauerbrei et al. (*J. of Clin. Virol.*, 1999) in view of Wittwer et al. (U.S. Patent No. 6,174,670). Claims 1, 4-20, and 23-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sauerbrei et al. in view of Wittwer et al. and in further view of Longo et al. (*Gene*, 1990). Claims 1-16, 19, 20-22 and 23-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Davison et al. (*J. Gen Virol.*, 1986) in view of Rose et al. (U.S. Patent No. 5,925,733) and in further view of Wittwer et al. Claims 1-19 and 23-25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Davison et al. in view of Rose et al. and Wittwer et al. and in further view of Longo et al. Claims 20-22 and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Davison et al. in view of Rose et al. and Wittwer et al. and further in view of Beards et al. (*J. Med. Virol.*, 1998). Applicants respectfully traverse these rejections with respect to new claims 37-79.

Applicants have canceled original claims 1-36 and introduced new claims 37-79. New claims 37-79 correspond to the originally filed method claims, but additionally recite at least one primer or one probe sequence. Applicants submit that new claims 37-79 are not obvious over the cited art. None of the references, alone or in combination, teach or suggest using the particular

primer or probe sequences that are now recited in new claims 37-79. Even the Davison et al. reference, which discloses the entire sequence of the VZV genome, does not teach or suggest using the particular primers and probes recited in the pending claims in methods to detect the presence or absence of VZV. Similarly, the Rose et al. reference, which discloses numerous DNA polymerase sequences from retroperitoneal fibromatosis herpes virus (RFHV and RFHV2) and Kaposi's sarcoma herpes virus (KSHV), does not teach or suggest using the particular primers and probes recited in the pending claims. The new claims added herein that recite particular primer or probe sequences, therefore, are not obvious over the cited references. In view of the amendments and remarks herein, Applicants submit that the rejections of claims 1-26 under 35 U.S.C. §103(a) is moot, and respectfully submit that the rejection should not be applied to new claims 37-79.

CONCLUSIONS

Enclosed is a \$1,392 check for excess claim fees. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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